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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 In Re
12 PG&E CORPORATION
13 v.
14 AECOM TECHNICAL SERVICES, INC.

15 Case No. 4:20-cv-05381-HSG (Lead Case)
16 (Reference withdrawn from Bankruptcy Case
17 No. 19-30088, Adv. Proc. No. 20-03019 and
18 Adv. Proc. No. 19-03008)
19 (Consolidated with Case No. 3:20-cv-08463-
20 EMC)

21 **REQUEST FOR JUDICIAL NOTICE IN
22 SUPPORT OF COUNTER-DEFENDANT
23 PG&E'S MOTION TO DISMISS/STRIKE
24 RE: AECOM'S SECOND AMENDED
25 COUNTERCLAIM**

26 [Fed. R. Civ. P. 12(b)(6), 15(a)]

27 Date: November 18, 2021
28 Time: 2:00 p.m.
Courtroom: 2, 4th Floor
Judge: Hon. Gilliam S. Haywood, Jr.

Complaint Filed: January 25, 2019
Trial Date: February 14, 2021

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2 Pursuant to Rule 201 of the Federal Rules of Civil Procedure, Counter-Defendant Pacific
 3 Gas and Electric Company (PG&E) asks that the Court take judicial notice of the following
 4 documents in support of its Rule 15(a) Motion to Strike and Rule 12(b)(6) motion to dismiss as to
 5 Counterclaimant AECOM Technical Services, Inc.'s (AECOM) Second Amended Counterclaim:

6 1. Relevant excerpts of EPC Agreement, Attachment 1 – Project Specific Information,
 7 a true copy of which is attached as **Exhibit A** to the Khairi Declaration. This document is subject
 8 to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint*
 9 *Communs. Group, Inc., Sec. Litig.*, 221 F.Supp.2d 1090, 1095 (N.D. Cal. 2002) (“In ruling on a
 10 motion to dismiss, a court may take judicial notice of a document if it is relied on in the complaint
 11 (regardless of whether it is expressly incorporated therein) and its authenticity is not disputed”);
 12 *Salinas Valley Mem'l Healthcare Sys. v. Monterey Peninsula Horticulture, Inc.*, No. 17-cv-7076-
 13 LHK, 2019 U.S. Dist. LEXIS 104483, 2019 WL 2569545, at *4 (N.D. Cal. Jun. 21, 2019) (judicial
 14 notice of contract referenced in complaint); *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005,
 15 1017 (9th Cir. 2012) (same).

16 2. Relevant excerpts of EPC Agreement, Attachment 2 – General Conditions, a true
 17 copy of which is attached as **Exhibit B** to the Khairi Declaration. This document is subject to
 18 judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint*
 19 *Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem'l Healthcare Sys.*, 2019 U.S. Dist.
 20 LEXIS 104483, at *4; *Skilstaf, Inc.*, 669 F.3d at 1017.

21 3. Relevant excerpts of EPC Agreement, Attachment 3 – Specific Conditions, a true
 22 copy of which is attached as **Exhibit C** to the Khairi Declaration. This document is subject to
 23 judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *In re Northpoint*
 24 *Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem'l Healthcare Sys.*, 2019 U.S. Dist.
 25 LEXIS 104483, at *4; *Skilstaf, Inc.*, 669 F.3d at 1017.

26 4. Contract Change Order No. 1 executed September 16, 2016, a true copy of which is
 27 attached as **Exhibit D** to the Khairi Declaration. This document is subject to judicial notice
 28 pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp v. Sierra*

1 *Kings Health Care Dist.*, No. CVF 07-1199 AWI GSA, 2008 U.S. Dist. LEXIS 11328, at *17 (E.D.
 2 Cal. Jan. 31, 2008); *Towantic Energy, L.L.C. v. GE*, No. C 04-00446 JF, 2004 U.S. Dist. LEXIS
 3 15385, at *2, fn. 1 (N.D. Cal. Aug. 2, 2004).

4 5. Contract Change Order No. 2 executed January 9, 2017, a true copy of which is
 5 attached as **Exhibit E** to the Khairi Declaration. This document is subject to judicial notice
 6 pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.
 7 Dist. LEXIS 11328, at *17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at *2, fn. 1.

8 6. Contract Change Order No. 3 executed February 20, 2017, a true copy of which is
 9 attached as **Exhibit F** to the Gruber Declaration. This document is subject to judicial notice
 10 pursuant to Rule 201 of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.
 11 Dist. LEXIS 11328, at *17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at *2, fn. 1

12 7. Contract Change Order No. 4. executed March 29, 2017, a true copy of which is
 13 attached as **Exhibit G** to the Khairi Declaration. This document is subject to judicial notice
 14 pursuant to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S.
 15 Dist. LEXIS 11328, at *17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at *2, fn. 1

16 8. Contract Change Order No.5. executed June 6, 2017, a true copy of which is attached
 17 as **Exhibit H** to the Khairi Declaration. This document is subject to judicial notice pursuant to
 18 Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S. Dist. LEXIS
 19 11328, at *17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at *2, fn. 1

20 9. Contract Change Order No. 6. Executed December 7, 2017, a true copy of which is
 21 attached as **Exhibit I** to the Khairi Declaration. This document is subject to judicial notice pursuant
 22 to Rule 201(b) of the Federal Rules of Civil Procedure. *Modular Space Corp.*, 2008 U.S. Dist.
 23 LEXIS 11328, at *17; *Towantic Energy*, 2004 U.S. Dist. LEXIS 15385, at *2, fn. 1.

24 10. Relevant excerpts of Article 4 – Project Specific Information – to the Request for
 25 Proposal for the Project, a true copy of which is attached as **Exhibit J** to the Khairi Declaration.
 26 This document is subject to judicial notice pursuant to Rule 201(b) of the Federal Rules of Civil
 27 Procedure. *In re Northpoint Communs. Group*, 221 F.Supp.2d at 1095; *Salinas Valley Mem'l*
 28 *Healthcare Sys.*, 2019 U.S. Dist. LEXIS 104483, at *4; *Skilstaf, Inc.*, 669 F.3d at 1017.

Respectfully submitted,

Dated: August 9, 2021

RALLS GRUBER & NIECE LLP

By: Aaron R. Gruber

AARON R. GRUBER

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PACIFIC GAS & ELECTRIC COMPANY